

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ANTHONY SUNG CHO,  
Plaintiff,

v.

CITY OF SAN JOSE, et al.,  
Defendants.

Case No. 21-cv-05503-VKD

**ORDER GRANTING UNOPPOSED  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

Re: Dkt. No. 35

On July 16, 2021, plaintiff Anthony Sung Cho filed a complaint against defendant City of San Jose (“City”) and police officers Steven Gaona, Tyler Moran, Zachary David Preuss, and Matthew Rodriguez as defendants. Dkt. No. 1. In his complaint, Mr. Cho asserts seven different claims: (1) a Fourth Amendment excessive-force claim under 42 U.S.C. § 1983 against the defendant officers; (2) a *Monell* failure-to-train claim under 42 U.S.C. § 1983 against the City (and “supervisory Does”); (3) a *Monell* ratification claim under 42 U.S.C. § 1983 against the City (and “supervisory Does”); (4) a state-law claim for battery against the City and defendant officers; (5) a state-law claim for negligence against the City and defendant officers; (6) a state-law claim for intentional infliction of emotional distress against the City and defendant officers; and (7) a state law claim for Bane Act violations against the City and defendant officers. *See id.*

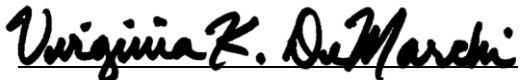
The City now moves for partial summary judgment on Mr. Cho’s two *Monell* claims—claims two and three. Dkt. No. 35. It argues that “there is no evidence that any alleged unreasonable use of force was the result of the City’s training or complete lack thereof or that any final policymaker affirmatively approved of Defendant officers’ conduct.” *Id.* at 2. Mr. Cho does

not oppose the motion.<sup>1</sup> Dkt. No. 37.

Accordingly, the City's motion for partial summary judgment on Mr. Cho's failure to train claim (claim 2) and ratification claim (claim 3) is granted.

**IT IS SO ORDERED.**

Dated: October 18, 2022

  
VIRGINIA K. DEMARCHI  
United States Magistrate Judge

United States District Court  
Northern District of California

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<sup>1</sup> All parties appearing have indicated their consent to magistrate judge jurisdiction. Dkt. Nos. 7, 16.